

### **REMARKS**

The Office Action dated June 13, 2007 has been received and carefully noted. The above amendments to the claims, and the following remarks, are submitted as a full and complete response thereto.

Claims 1, 2, 9, and 10 are amended to more particularly point out and distinctly claim the subject matter of the present invention. No new matter is added. Claims 1-16 are respectfully submitted for consideration.

The Office Action rejected claims 1-6, 8-14, and 16 under 35 U.S.C. 102(b) as being anticipated by US Patent Publication No. 2002/0077138 to Bark et al. (Bark). Applicants respectfully submit that Bark fails to disclose or suggest all of the features recited in any of the pending claims.

Claim 1, from which claims 2-8 depend, is directed to a method of managing uplink radio resources. An interference level is determined in primary base transceiver station. A contribution of secondary cell connections to the interference level is determined. A proportionality factor is computed for adjusting a reference interference level relative to the interference level. The proportionality factor is proportional to the contribution of the secondary cell connections to the interference level. The reference interference level relative to the interference level is adjusted by using the proportionality factor.

Claim 9, from which claims 10-15 depend, is directed to an arrangement for managing uplink radio resources. A first determining means determines an interference

level into the primary base transceiver station. A second determining means determines a contribution of secondary cell connections to the interference level. A first computing means computes a proportionality factor for adjusting a reference interference level relative to the interference level. The proportionality factor is proportional to the contribution of the secondary cell connections to the interference level. A first adjusting means for adjusting the reference interference level relative to the interference level by using the proportionality factor.

Applicants respectfully submit that each of the above claims recites features that are neither disclosed nor suggested in Bark.

Bark is directed to adaptive open-loop power control. Figure 2 illustrates the power control process of Bark. A transmitting radio determines preliminary transmit power. The preliminary transmit power is adjusted using an adaptive parameter, for example traffic load, to account for traffic conditions. See paragraph [0037]. In another example, Bark describes a mobile station controller that determines a cell-specific adaptive power parameter or power offset value. See paragraph [0046]. Uplink interference  $I_{UL}$  is measured in the cell where the mobile station performs the random access and uplink interference values are measured in the surrounding cells. See paragraph [0048]. Cell specific offset is determined, in part, by subtracting the local uplink interference from maximum allowed uplink interference. The offset is used to determine cell specific adaptive power parameter and set the mobile transmit power for

an uplink power channel. See for example, paragraphs [0045] – [0046], and paragraph [0052].

Applicants respectfully submit that Bark fails to disclose or suggest at least the feature of “computing a proportionality factor for adjusting a reference interference level relative to the interference level,” as recited in the independent claims. As discussed above, Bark merely describes a method to determine cell a specific adaptive power parameter and set the mobile transmit power for an uplink power channel. However, Bark is silent with regards to adjusting a reference interference level.

Additionally, MPEP 2131 states that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). However, the Office Action’s position essentially ignores the fact that the claims recite elements relating to adjustment of the reference interference level.

Applicants respectfully submit that because claims 2-6, 8, and 10-14 depend from claims 1 and 9, these claims are allowable at least for the same reasons as claims 1 and 9 as well as for the additional features recited in these dependent claims.

Based at least on the above, Applicants respectfully submit that Bark fails to disclose or suggest all of the features recited in claims 1-6, 8-14 and 16. Accordingly, withdrawal of the rejection under 35 U.S.C. 102(b) is respectfully requested.

The Office Action rejected claims 7 and 15 under 35 U.S.C. 103(a) as being obvious over Bark. The Office Action took the position that Bark disclosed all of the features of these claims except time control. However, the Office Action asserted that it would have been obvious to one skilled in the art to provide time control in order to provide more efficient and effective open loop power control. Applicants respectfully submit that Bark fails to disclose or suggest all of the features recited in any of the above claims. More specifically, Applicants respectfully submit that because claims 7 and 15 depend from claims 1 and 9, these claims are allowable at least for the same reasons as claims 1 and 9, as well as for the additional features recited in these dependent claims.

Further, Applicants respectfully traverse the Office Action's assertion that it would have been obvious to one skilled in the art to provide time control in order to provide more efficient and effective open loop power control. This feature is not disclosed in Bark as admitted in the Office Action. In addition, the Office Action failed to provide any evidence that the features recited in claims 7 and 15 are obvious in light of the features recited in claims 1 and 9. Thus, Applicants respectfully submit that the Office Action failed to establish *prima facie* obviousness in rejecting claims 7 and 15.

Based at least on the above, Applicants respectfully submit that Bark fails to disclose or suggest all of the features recited in claims 7 and 15. Accordingly, withdrawal of the rejection under 35 U.S.C. 103(a) is respectfully requested.

Applicants respectfully submit that each of claims 1-16 recites features that are neither disclosed nor suggested in Bark. Accordingly, it is respectfully requested that each of claims 1-16 be allowed, and this application passed to issue.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the applicant's undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper is not being timely filed, the applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,



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Enclosures: Petition for Extension of Time  
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